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USTR FOR POSNER (OGC), WINTER (CHINA) AND MCCOY (IPR) AND
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SUBJECT: DEMARCHE ON WTO DISPUTE ON CHINA IPR: GERMANY
PREFERS DIALOGUE FIRST

REF: SECSTATE 126703

¶1. Embassy delivered reftel talking points to Knut Bruenjes, Deputy Director General for Trade Policy, at the Ministry of Economics and Technology, August 11, 2006. Bruenjes said German officials are aware of the seriousness of the IPR violations involving trademarks and copyrights occurring in China, but would prefer to pursue a dialogue with China before seeking consultations at the WTO. He said Germany supported EU Trade Commissioner Mandelson's timeline for dialogue with China on IPR issues until roughly the end of ¶2006. He said Germany would urge the Commission to prepare for the likelihood it would have to seek recourse in the WTO after Mandelson's timeline expires. Bruenjes agreed to put this issue on the EU's 133 Trade Committee's agenda in the next few weeks.

¶2. In response to our inquiry about concrete complaints from German firms, Bruenjes said he would poll Germany's large companies and industrial associations about specific IPR violations. He noted that companies like Puma and Adidas, as well as the Federation of German Industry (BDI) and German International Chamber of Commerce (DIHK), could well have a record of such incidents. Bruenjes thought such concrete examples would help provide substance for an eventual phone conversation on the issue between Commerce Secretary Gutierrez and Minister Glos. He underlined the importance of long-term U.S.-German cooperation on IPR in China, pointing to our current common approach on automotive parts in the WTO. Bruenjes agreed with our suggestion the DIHK-sponsored, "2006 Hamburg Summit - China Meets Europe" in Hamburg on September 13-15, would provide an occasion for high-ranking German government officials to address China's IPR enforcement policies with their Chinese counterparts (Note: Chinese Prime Minister Wen Jiabao is expected to attend the Summit on September 13-14, before traveling by train to Berlin on September 14, where he will meet with Chancellor Merkel. End Note).

Business Associations: Prefer EU's Go Slow Approach

¶3. Representatives from the German International Chamber of Commerce DIHK) and the Federation of German Industry (BDI) echoed the cautious approach of the German government on bringing the IPR complaint before the WTO, citing the fear of losing contracts and business opportunities in China. According to Doris Moeller, Head of DIHK's Intellectual

Property Office and Board Member of the German Economic Action Committee Against Product and Trademark Piracy (APM), DIHK has received numerous complaints from German businesses operating in China regarding IP and technology transfer violations. She noted, however, there are few companies willing to raise their complaints in a forum like the WTO for fear of losing potential business in China. Moeller said DIHK supported the EU's dialogue proposal and would prefer to see if it brings any results before taking action at the WTO.

¶4. Although industry and government currently prefer a cautious approach, Moeller noted that DIHK is taking significant steps to systematize and document IP violations occurring in China. Within the next two months, DIHK plans to release a questionnaire to all its members, as well as post it on its webpage, asking for information from companies on specific IP violations they have experienced. To date, information has apparently been anecdotal. The point of this exercise is to provide the German government with concrete examples of copyright, trademark, and technology transfer violations that have occurred in China. Moeller promised to share the results with us, as companies responded to the survey.

¶5. Christina Rentzmann, Country Director for China at BDI, underlined the cautious approach of German business when addressing IP violations in China. Due to the many contracts German companies have with the Chinese government, German businesses are reluctant to speak out publicly on IP violations. According to Rentzmann, German firms and their business associations are not ready to embrace a more aggressive approach to halting IP violations in China, i.e. WTO consultations, and would rather allow the programs in place, e.g. exchanges, training of judges and lawyers, to continue. Given business' passive attitude, Rentzmann was

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skeptical about the amount of information companies would be willing to provide DIHK on IP violations. She also noted that German businesses and the government tended to differentiate between technology/know-how transfer violations and IP violations involving copyrights and trademarks in general, and focused their efforts more on preventing the former. That said, she agreed these issues are closely tied together and strengthening enforcement and regulations to prevent IP trademark violations in China would also help stop illegal technology transfers.

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